



HCP(MD)No.993 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2022

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**THE HON'BLE MR JUSTICE M.S.RAMESH  
AND  
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.993 of 2022

Shiba

... Petitioner /Wife of the Detenue

Vs.

1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
State of Tamilnadu,  
Secretariat,  
Chennai-600 009.

2.The District Collector and District Magistrate,  
Thoothukudi District,  
Thoothukudi.

3.The Superintendant of Prison,  
Palayamkottai Central Prison,  
Tirunelveli.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in H.S(M)Confdl.No.85/2022, dated 07.05.2022



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and quash the same and direct the respondents to produce the detenu by name Maharaj, son of Chidhambaram, aged about 32 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents : Mr.A.Thiruvadikumar

Additional Public Prosecutor

### **ORDER**

**M.S.RAMESH,J.**

and

**N. ANAND VENKATESH,J.**

The petitioner is the wife of the detenu viz., Maharaj, son of Chidhambaram, aged about 32 years. The detenu has been detained by the second respondent by his order in H.S(M)Confdl.No.85/2022, dated 07.05.2022 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. Apart from the other grounds, the main ground that was urged by the learned counsel for the petitioner is that the detaining authority, after being aware of the fact that bail petition filed by the detenu was dismissed, taking into consideration the order passed in CrI.M.P.No.414 of 2020, came to a conclusion that there is a likelihood of the detenu being let out on bail. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case.



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5. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would further submit that the investigation has been completed and charge sheet has been filed and it has been taken on file in C.C.No.319 of 2022 on the file of the learned Judicial Magistrate, Vilathikulam, and the case stands posted on 22.12.2022.

6. We have carefully went through the order passed in CrI.M.P.No.414 of 2020.

7. It is seen that the accused in that case was granted bail on the ground that no person had sustained injury and there was no previous case against the accused. In the present case, there are two adverse cases and a ground case against the detenu and hence, the order relied upon by the detaining authority cannot be considered to be a similar case. In view of the above, the detention order suffers from non application of mind and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.



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8.In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S(M)Confdl.No.85/2022, dated 07.05.2022 passed by the second respondent is set aside. The detenu, viz., Maharaj, aged about 32 years, S/o.Chidhambaram, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (N.A.V.,J.)  
29.11.2022

Index : Yes/No

Internet : Yes

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**To:**

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Secretariat,  
Chennai-600 009.

2.The District Collector and District Magistrate,  
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4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
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